

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1109

Introduced by Assembly Member Blakeslee

February 27, 2009

~~An act to amend Section 56001 of the Government Code, relating to local government.~~ *An act to amend Section 56375 of, and to add Sections 56057.5 and 56858 to, the Government Code, relating to local government.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1109, as amended, Blakeslee. The Cortese-Knox-Hertzberg Act of 2000.

The Cortese-Knox-Hertzberg Act of 2000 authorizes a local agency formation commission to, among other things, initiate proceedings for the consolidation, dissolution, and formation of new districts, as specified.

This bill would authorize a commission to order the administration of nonperforming districts. The bill would require the commission to, upon placing a district under temporary administration, prepare a performance study, as specified.

~~Existing law makes various findings and declarations regarding boundaries, community development, available housing, and development within the state.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 56057.5 is added to the Government Code,*
2 *to read:*

3 56057.5. “Nonperforming district” means a district that meets
4 the following criteria as determined by the commission:

5 (a) The district provides a service that cannot be terminated
6 without a substantial adverse effect on public health or safety in
7 the territory of the district.

8 (b) The district is nonperforming. A district is nonperforming
9 if one or more of the following are occurring:

10 (1) The district is not currently providing the service at
11 minimally acceptable levels or is likely not to be able to provide
12 the service at minimally acceptable levels in the near future.

13 (2) The district’s income and other resources are insufficient
14 to maintain the operations of the agency at minimally acceptable
15 levels.

16 (3) The legislative body is unable to properly function due to
17 vacancies on the body.

18 (4) The district has not maintained adequate and properly
19 trained staff or contracted for services to provide the service at
20 minimally adequate levels.

21 SEC. 2. Section 56375 of the Government Code is amended to
22 read:

23 56375. The commission shall have all of the following powers
24 and duties subject to any limitations upon its jurisdiction set forth
25 in this part:

26 (a) (1) To review and approve or disapprove with or without
27 amendment, wholly, partially, or conditionally, proposals for
28 changes of organization or reorganization, consistent with written
29 policies, procedures, and guidelines adopted by the commission.

30 (2) The commission may initiate proposals for any of the
31 following:

32 (A) The consolidation of a district, as defined in Section 56036.

33 (B) The dissolution of a district.

34 (C) A merger.

35 (D) The establishment of a subsidiary district.

36 (E) The formation of a new district or districts.

37 (F) *An order for administration of nonperforming districts.*

38 ~~(F)~~

1 (G) A reorganization that includes any of the changes specified
2 in subparagraph (A), (B), (C), (D), ~~or~~ (E), *or* (F).

3 (3) A commission may initiate a proposal described in paragraph
4 (2) only if that change of organization or reorganization is
5 consistent with a recommendation or conclusion of a study
6 prepared pursuant to Section 56378, 56425, or 56430, and the
7 commission makes the determinations specified in subdivision (b)
8 of Section 56881.

9 (4) A commission shall not disapprove an annexation to a city,
10 initiated by resolution, of contiguous territory that the commission
11 finds is any of the following:

12 (A) Surrounded or substantially surrounded by the city to which
13 the annexation is proposed or by that city and a county boundary
14 or the Pacific Ocean if the territory to be annexed is substantially
15 developed or developing, is not prime agricultural land as defined
16 in Section 56064, is designated for urban growth by the general
17 plan of the annexing city, and is not within the sphere of influence
18 of another city.

19 (B) Located within an urban service area that has been delineated
20 and adopted by a commission, which is not prime agricultural land,
21 as defined by Section 56064, and is designated for urban growth
22 by the general plan of the annexing city.

23 (C) An annexation or reorganization of unincorporated islands
24 meeting the requirements of Section 56375.3.

25 (5) As a condition to the annexation of an area that is
26 surrounded, or substantially surrounded, by the city to which the
27 annexation is proposed, the commission may require, where
28 consistent with the purposes of this division, that the annexation
29 include the entire island of surrounded, or substantially surrounded,
30 territory.

31 (6) A commission shall not impose any conditions that would
32 directly regulate land use density or intensity, property
33 development, or subdivision requirements.

34 (7) The decision of the commission with regard to a proposal
35 to annex territory to a city shall be based upon the general plan
36 and prezoneing of the city. When the development purposes are not
37 made known to the annexing city, the annexation shall be reviewed
38 on the basis of the adopted plans and policies of the annexing city
39 or county. A commission shall require, as a condition to
40 annexation, that a city prezone the territory to be annexed or present

1 evidence satisfactory to the commission that the existing
2 development entitlements on the territory are vested or are already
3 at build-out, and are consistent with the city's general plan.
4 However, the commission shall not specify how, or in what
5 manner, the territory shall be rezoned.

6 (b) With regard to a proposal for annexation or detachment of
7 territory to, or from, a city or district or with regard to a proposal
8 for reorganization that includes annexation or detachment, to
9 determine whether territory proposed for annexation or detachment,
10 as described in its resolution approving the annexation, detachment,
11 or reorganization, is inhabited or uninhabited.

12 (c) With regard to a proposal for consolidation of two or more
13 cities or districts, to determine which city or district shall be the
14 consolidated successor city or district.

15 (d) To approve the annexation of unincorporated, noncontiguous
16 territory, subject to the limitations of Section 56742, located in the
17 same county as that in which the city is located, and that is owned
18 by a city and used for municipal purposes and to authorize the
19 annexation of the territory without notice and hearing.

20 (e) To approve the annexation of unincorporated territory
21 consistent with the planned and probable use of the property based
22 upon the review of general plan and rezoning designations. No
23 subsequent change may be made to the general plan for the annexed
24 territory or zoning that is not in conformance to the rezoning
25 designations for a period of two years after the completion of the
26 annexation, unless the legislative body for the city makes a finding
27 at a public hearing that a substantial change has occurred in
28 circumstances that necessitate a departure from the rezoning in
29 the application to the commission.

30 (f) With respect to the incorporation of a new city or the
31 formation of a new special district, to determine the number of
32 registered voters residing within the proposed city or special district
33 or, for a landowner-voter special district, the number of owners
34 of land and the assessed value of their land within the territory
35 proposed to be included in the new special district. The number
36 of registered voters shall be calculated as of the time of the last
37 report of voter registration by the county elections official to the
38 Secretary of State prior to the date the first signature was affixed
39 to the petition. The executive officer shall notify the petitioners of
40 the number of registered voters resulting from this calculation.

1 The assessed value of the land within the territory proposed to be
2 included in a new landowner-voter special district shall be
3 calculated as shown on the last equalized assessment roll.

4 (g) To adopt written procedures for the evaluation of proposals,
5 including written definitions consistent with existing state law.
6 The commission may adopt standards for any of the factors
7 enumerated in Section 56668. Any standards adopted by the
8 commission shall be written.

9 (h) To adopt standards and procedures for the evaluation of
10 service plans submitted pursuant to Section 56653 and the initiation
11 of a change of organization or reorganization pursuant to
12 subdivision (a).

13 (i) To make and enforce regulations for the orderly and fair
14 conduct of hearings by the commission.

15 (j) To incur usual and necessary expenses for the
16 accomplishment of its functions.

17 (k) To appoint and assign staff personnel and to employ or
18 contract for professional or consulting services to carry out and
19 effect the functions of the commission.

20 (l) To review the boundaries of the territory involved in any
21 proposal with respect to the definiteness and certainty of those
22 boundaries, the nonconformance of proposed boundaries with lines
23 of assessment or ownership, and other similar matters affecting
24 the proposed boundaries.

25 (m) To waive the restrictions of Section 56744 if it finds that
26 the application of the restrictions would be detrimental to the
27 orderly development of the community and that the area that would
28 be enclosed by the annexation or incorporation is so located that
29 it cannot reasonably be annexed to another city or incorporated as
30 a new city.

31 (n) To waive the application of Section 22613 of the Streets and
32 Highways Code if it finds the application would deprive an area
33 of a service needed to ensure the health, safety, or welfare of the
34 residents of the area and if it finds that the waiver would not affect
35 the ability of a city to provide any service. However, within 60
36 days of the inclusion of the territory within the city, the legislative
37 body may adopt a resolution nullifying the waiver.

38 (o) If the proposal includes the incorporation of a city, as defined
39 in Section 56043, or the formation of a district, as defined in
40 Section 2215 of the Revenue and Taxation Code, the commission

1 shall determine the property tax revenue to be exchanged by the
2 affected local agencies pursuant to Section 56810.

3 (p) To authorize a city or district to provide new or extended
4 services outside its jurisdictional boundaries pursuant to Section
5 56133.

6 (q) To enter into an agreement with the commission for an
7 adjoining county for the purpose of determining procedures for
8 the consideration of proposals that may affect the adjoining county
9 or where the jurisdiction of an affected agency crosses the boundary
10 of the adjoining county.

11 SEC. 3. Section 56858 is added to the Government Code, to
12 read:

13 56858. (a) Upon receipt by the commission of a proposed
14 change of organization or reorganization that includes a request
15 for administration of a district, the executive officer shall place
16 the proposal on the agenda for the next available commission
17 meeting for preliminary consideration and shall transmit a copy
18 of the proposal to the subject district and to the potential
19 administrator agency.

20 (b) After considering any comments received at the preliminary
21 hearing, the commission shall do one of the following:

22 (1) Determine that the agency does not meet the criteria for
23 consideration for administration and terminate the proceedings.

24 (2) Direct commission staff to explore alternatives to
25 administration.

26 (3) Direct the executive officer to commence preparation of a
27 performance study of the district operations for formal hearing
28 and consideration by the commission.

29 (c) If the commission determines at the preliminary hearing that
30 the nonperformance of the district constitutes an imminent threat
31 to public health and safety, it may order immediate placement of
32 the district under temporary administration. The commission shall
33 appoint an administrator immediately. The administrator shall
34 assume immediate control of the agency. The commission shall
35 prepare a performance study, pursuant to subdivision (d), and
36 make a final determination of whether to continue the temporary
37 administration on a longer term basis.

38 (d) The executive officer shall prepare, or cause to be prepared,
39 a performance study of the district to provide information to the
40 commission to determine whether to place the district under

1 administration by another agency. The study shall include, but is
2 not limited to, all of the following:

3 (1) A financial analysis of district income and expenses and a
4 two-year projection of the district's income and expenses.

5 (2) An analysis of services being provided and an evaluation
6 of whether the services meet and are likely to continue to meet
7 minimally acceptable levels of service.

8 (3) An analysis of board, management, and staffing functionality.

9 (4) An identification of the likely agency to assume
10 administration if ordered.

11 (5) An evaluation of the feasibility of alternatives to
12 administration.

13 (6) Any other information as the commission or executive officer
14 deems necessary.

15 (e) If the commission, at its preliminary hearing, decides to
16 proceed with consideration of placing the district under
17 administration, it may order that the district operations be limited
18 as provided in paragraph (4) of subdivision (a) of Section 56885.5
19 pending the commission determination.

20 ~~SECTION 1. Section 56001 of the Government Code is~~
21 ~~amended to read:~~

22 56001. The Legislature finds and declares that it is the policy
23 of the state to encourage orderly growth and development which
24 are essential to the social, fiscal, and economic well-being of the
25 state. The Legislature recognizes that the logical formation and
26 determination of local agency boundaries is an important factor
27 in promoting orderly development and in balancing that
28 development with sometimes competing state interests of
29 discouraging urban sprawl, preserving open space and prime
30 agricultural lands, and efficiently extending government services.
31 The Legislature also recognizes that providing housing for persons
32 and families of all incomes is an important factor in promoting
33 orderly development. Therefore, the Legislature further finds and
34 declares that this policy should be effected by the logical formation
35 and modification of the boundaries of local agencies, with a
36 preference granted to accommodating additional growth within,
37 or through the expansion of, the boundaries of those local agencies
38 which can best accommodate and provide necessary governmental
39 services and housing for persons and families of all incomes in
40 the most efficient manner feasible.

1 ~~The Legislature recognizes that urban population densities and~~
2 ~~intensive residential, commercial, and industrial development~~
3 ~~necessitate a broad spectrum and high level of community services~~
4 ~~and controls. The Legislature also recognizes that when areas~~
5 ~~become urbanized to the extent that they need the full range of~~
6 ~~community services, priorities are required to be established~~
7 ~~regarding the type and levels of services that the residents of an~~
8 ~~urban community need and desire; that community service~~
9 ~~priorities be established by weighing the total community service~~
10 ~~needs against the total financial resources available for securing~~
11 ~~community services; and that those community service priorities~~
12 ~~are required to reflect local circumstances, conditions, and limited~~
13 ~~financial resources. The Legislature finds and declares that a single~~
14 ~~multipurpose governmental agency is accountable for community~~
15 ~~service needs and financial resources and, therefore, may be the~~
16 ~~best mechanism for establishing community service priorities~~
17 ~~especially in urban areas. However, the Legislature recognizes the~~
18 ~~critical role of many limited purpose agencies, especially in rural~~
19 ~~communities. The Legislature also finds that, whether~~
20 ~~governmental services are proposed to be provided by a~~
21 ~~single-purpose agency, several agencies, or a multipurpose agency,~~
22 ~~responsibility should be given to the agency or agencies that can~~
23 ~~best provide government services.~~